

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1995, each agency shall begin the rulemaking process by 1st filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Arizona Administrative Register.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION

PREAMBLE

1. Sections Affected

R3-2-101
R3-2-202
R3-2-501
R3-2-502
R3-2-502
R3-2-503
R3-2-601
R3-2-612

Rulemaking Action

New Section
Amend
Amend
Repeal
New Section
Amend
Amend
Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 3-107 and 3-1203

Implementing statutes: A.R.S. §§ 3-1203, 3-1205, 3-1207, and 3-1741

3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Shirley Conard, Rules Specialist
Address: Department of Agriculture
1688 West Adams, Room 124
Phoenix, Arizona 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420

4. An explanation of the rule, including the agency's reasons for initiating the rule:

These rules govern the state and federal cooperative disease control program and the importation of cattle. The proposed rules add additional requirements to prevent the introduction of brucellosis or tuberculosis from cattle imported from Mexico.

R3-2-101, Definitions. Many of the definitions listed in rules throughout Chapter 2 were already defined in statute or incorporated by reference material. This new Section was added to include previously undefined terms inclusive to the entire Chapter.

R3-2-202, Meat and Poultry Inspection and Slaughtering Standards. This rule lists the incorporations by reference for meat and poultry inspection and slaughtering procedures, and for the contents of processed meats and meat food products. The rulemaking updates this material.

R3-2-501, Tuberculosis Control and Eradication. This rule has been rewritten to improve clarity and understanding, to correct a statute citation, to update the existing incorporation by reference, and to incorporate by reference material dealing with cervidae (all species of deer, elk and moose) not listed as restricted wildlife.

R3-2-502, Pseudorabies Control and Eradication Procedures. This rule has been added to adopt, by reference, the USDA procedures for pseudorabies.

R3-2-503, Brucellosis Control and Eradication. This rule has been rewritten to improve clarity and understanding, to update the existing incorporation by reference, and to incorporate by reference material dealing with swine.

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R3-2-601, Definitions. This rule has been updated to remove terms duplicated by statute or incorporation by reference material and to add terms necessary for the understanding of this Article.

R3-2-612, Importation of Cattle and Bison. This rule adds additional requirements to prevent the introduction of brucellosis or tuberculosis from cattle imported from Mexico. It relaxes the retesting requirement for dairy cattle from Class Free States; provides the requirements for dealing with moving imported quarantine cattle and addresses non-neutered cattle from Mexico; sets down actions contained in the *Border State Veterinarian's Consensus Document* and already implemented in the State Veterinarian's Office and gives the State Veterinarian the option to allow the importation of non-vaccinated dairy cattle.

5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not Applicable.

6. **The preliminary summary of the economic, small business, and consumer impact:**

The incorporation by reference material has been updated to enable the state to comply with USDA agreements and contracts to administer programs that follow minimum federal standards.

Most of the substantive changes in this rulemaking deal with tuberculosis preventive actions contained in the *Border State Veterinarian's Consensus Document* which was endorsed by the Arizona/Sonora Animal Health Committee in the fall of 1995. (Arizona, California, New Mexico, Texas) This Committee requested that the Arizona State Veterinarian promulgate rules incorporating the tuberculosis preventive measures outlined in the *Consensus Document*. Since this endorsement, many of the preventative measures have already been implemented by the Department. This rulemaking validates those implementations.

A. *The Arizona Department of Agriculture.*

The benefit to the Department by updating R3-2-202 results from the ability to continue administering a meat and poultry inspection program that is equal to that administered by the U.S. Department of Agriculture (USDA), as required by federal law. Should a state inspection program be deemed not to be administering regulations that are equivalent to those of the USDA, the state becomes "designated" by the USDA. Designation results in both the loss of federal funding and the takeover of inspection activities by the USDA.

The costs to the Department by updating R3-2-202 are restricted to additional time required for training inspection staff to enforce the new inspection requirements. Although the USDA is providing for the training of a few core inspection staff from the state program, the Department will be responsible for all additional staff training. Training of Department inspection staff is ongoing, thus delivery of training on these new requirements will be incorporated into training sessions already being planned.

The Sections in Articles 5 and 6 will benefit the Department primarily by strengthening its ability to prevent the introduction of tuberculosis, brucellosis, and pseudorabies into the state's livestock population. These Sections add additional testing requirements for the importation of livestock from Mexico, a country where both tuberculosis and brucellosis are common, update two referenced animal disease control guideline documents published by the USDA, and add two additional referenced documents of the USDA that will help in the prevention and control of pseudorabies in swine, and tuberculosis in some species of Cervidae.

There are no identifiable costs to the Department for these Sections. The proposed rules simply assist the Department in preventing the introduction of diseases, and controlling them should they be found.

B. *Political Subdivision.*

Political subdivisions of this state are not directly affected by the implementation and enforcement of this proposed rulemaking.

C. *Businesses Directly Affected By the Rulemaking. (Cattle growers, state licensed meat and poultry establishments)*

Updating the incorporation by reference in R3-2-202 will enforce stricter standards on the inspection and slaughtering of meat and poultry in Arizona. State agreements and contracts with the USDA compel the state to meet these standards to maintain the integrity of the existing inspection and slaughtering program.

R3-2-202 directly affects the state licensed meat and poultry establishments with Department inspection service. The benefit to these businesses is that the Department's "equal to" meat and poultry inspection program will continue to be certified by the USDA. This enables these establishments to continue obtaining inspection service from the Department. Should the USDA designate the state program for takeover, establishments will be required to obtain inspection service from the USDA. Many state licensed establishments are unable to meet all of the physical facility requirements of the USDA and would be forced to close.

The costs to these establishments include time required to implement the three new provisions required in the July 25, 1996, amendment of the CFR. Namely, establishments must design and implement Standard Operating Procedures for Sanitation (SSOPs), a testing program for E. coli, and a Hazard Analysis and Critical Control Point (HACCP) System for each of their processes (products). The amended CFR rule, entitled *Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems*, contains a number of appendices that are sufficient to guide a plant in the design of the three required programs. Should establishments be unable to design an SSOP, HACCP, and E. coli testing program, they have the option to hire a private consultant who will design the programs for them.

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In addition, to the expenditure of time and/or the need to hire a private consultant to design the three programs, establishments will be responsible for all costs incurred in their E. coli testing program. This would include costs for sampling, shipping, and laboratory fees. Excluding costs for time expended in collecting samples, estimates are that each test may cost between \$35 and \$75 per sample, depending on shipping costs. The minimum testing requirement for very small establishments is one test per week for thirteen weeks during a testing window comprising the months of June, July, and August. Thus, an establishment would incur costs of between \$500 and \$1000 per year for the E. coli testing.

The remaining Sections dealing with the control of animal diseases will result in slight added costs to the cattle feeder and rancher businesses in the state due to the requirement for retesting of imported cattle from Mexico for brucellosis and tuberculosis. The eradication program costs and the pre-importation testing requirements for livestock in Mexico are borne primarily by the cattle owners in Mexico. The state and federal governments of Mexico also contribute part of the costs of the eradication programs. Once imported into the state, the costs incurred to retest the cattle are borne by the owner, the same as for cattle imported from other states in the United States. The magnitude of the costs will depend on the number of cattle imported. An estimate of tuberculosis testing is \$1 to \$3 per head and for brucellosis testing, \$2 to \$5 per head. Costs to the cattle business are far outweighed by the reduction in risks that occur with the implementation of these additional disease control measures.

D. Private and public employment.

Private and public employment are not directly affected by the implementation and enforcement of this proposed rulemaking.

E. Consumers and the Public.

By amending R3-2-202, the consumers of meat and poultry products produced in state plants will benefit by way of being assured that these meat and poultry products are at least as wholesome as those produced in establishments inspected by the USDA. The intent of the amended CFR that is being incorporated by reference is to make the inspection program more scientific based, based more on prevention of contamination rather than control after contamination occurs, and thus to increase the safety of the nation's supply of meat and poultry products.

Increased costs to the public could result from the increase in costs incurred by the establishments to produce the products. Establishments would pass the costs on to the public through increased costs of meat and poultry products. Costs are expected to be similar for products produced under both state and USDA inspection.

The Sections in Articles 5 and 6 will benefit the public through reduction of the risks of importing livestock diseases, 2 of which can directly infect people (brucellosis and tuberculosis) and one that would devastate the state's pork industry, and indirectly adversely impact the local economies and market price of hogs.

There are no costs to the public associated with implementation of the disease control measures proposed in the remainder of the sections.

F. State Revenues.

This rulemaking will have no impact on state revenues.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Shirley Conard
Address: Department of Agriculture
1688 West Adams, Room 124
Phoenix, Arizona 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: January 13, 1997
Time: 10 a.m.
Location: Department of Agriculture
1688 West Adams, Room 206
Phoenix, Arizona 85007
Nature: Oral Proceeding

Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 4:30 p.m., January 15, 1997. The Department is committed to complying with the Americans with Disabilities Act. If any individual with a disability needs any type of accommodation, please call, (602) 542-4316, at least 72 hours before the hearing.

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9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
10. Incorporations by reference and their location in the rule:
R3-2-202(A).9 CFR Chapter III, Subchapters A and E
R3-2-202(B).9 CFR Chapter III, Subchapters C and E
R3-2-501(A).Bovine Tuberculosis Eradication – Uniform Methods and Rules
R3-2-501(C).Tuberculosis Eradication in Cervidae – Uniform Methods and Rules
R3-2-502. Pseudorabies, State-Federal-Industry Program Standards
R3-2-503(A).Brucellosis Eradication – Uniform Methods and Rules
R3-2-503(B).Swine Brucellosis Control/Eradication, State-Federal-Industry – Uniform Methods and Rules
R3-2-612(C).9 CFR 92.424 through 92.427
R3-2-612(H).9 CFR 73, Scabies in Cattle
11. The full text of the rules follows:

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION

ARTICLE 1. GENERAL PROVISIONS

Section
R3-2-101. Definitions

ARTICLE 2. MEAT AND POULTRY INSPECTION

Section
R3-2-202. Meat and Poultry Inspection and Slaughtering Standards

ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM

Section
R3-2-501. Tuberculosis accreditation procedures Control and Eradication Procedures
R3-2-502. Payment to owners for cattle depopulated because of tuberculosis
R3-2-502. Pseudorabies Control and Eradication Procedures
R3-2-503. Brucellosis certification procedures Control and Eradication Procedures

ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS

Section
R3-2-601. Definitions
R3-2-612. Requirements for importation of cattle Importation of Cattle and Bison

ARTICLE 1. GENERAL PROVISIONS

R3-2-101. Definitions
In addition to the definitions provided in A.R.S. §§ 3-1201, and 3-1771, the following terms apply to this Chapter:
1. "Animal" means livestock, bison, dogs, cats, rabbits, rodents, game animals, furbearing and wild mammals, and poultry and other birds.

2. "APHIS" means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.
3. "USDA" means the United States Department of Agriculture.
4. "VS" means the Veterinary Services branch of APHIS.

ARTICLE 2. MEAT AND POULTRY INSPECTION

R3-2-202. Meat and Poultry Inspection and Slaughtering Standards

- A. All meat inspection and slaughtering procedures shall be conducted as prescribed in 9 CFR Chapter III, Subchapters A and E, revised January 1, 1994 as amended July 25, 1996. The material incorporated herein by reference is on file with the Office of the Secretary of State and does not include any later amendments or editions of the incorporated matter. The following parts and sections of 9 CFR, Chapter III, Subchapter A, are excepted from incorporation:

302.2	321	329.9
306.3	322	331
307.5	327	335
312	329.7	

- B. All poultry inspection and slaughtering procedures shall be conducted as prescribed in 9 CFR 381, revised January 1, 1994 9 CFR Chapter III, Subchapters C and E, as amended July 25, 1996. The material incorporated herein by reference is on file with the Office of the Secretary of State and does not include any later amendments or editions of the incorporated matter. The following sections of 9 CFR 381 9 CFR Chapter III, Subchapter C are excepted from incorporation:

381.38	381.218
381.96 through 381.112	381.220 through 381.225
381.195 through 381.209	381.230 through 381.236
381.185 through 381.186	

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ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM

R3-2-501. Tuberculosis accreditation procedures Control and Eradication Procedures

- A. Procedures for tuberculosis control and eradication in cattle, bison and goats shall not be moved or transported to or within this state except in compliance with the provisions of be as prescribed in the U.S. Department of Agriculture USDA publication, Bovine Tuberculosis Eradication - Uniform Methods and Rules, effective March 13, 1985, February 3, 1989, which provisions are hereby incorporated by reference, and a copy of the publication does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B. Cattle or bison willfully exposed to quarantined cattle or bison are not eligible for the tuberculosis depopulation indemnity provided in A.R.S. § 24-745 3-1745.
- C. Procedures for tuberculosis control and eradication in cervidae not listed as restricted live wildlife in A.A.C. R12-4-406 shall be as prescribed in the USDA publication, Tuberculosis Eradication in Cervidae - Uniform Methods and Rules, effective May 15, 1994, including 1995 amendments. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

R3-2-502. Payment to owners for cattle depopulated because of tuberculosis

- A. The state shall pay owners a tuberculosis depopulation indemnity not exceed \$100.00 for each purebred animal and not to exceed \$50.00 for each grade stock animal. Any joint state federal indemnity payments, plus salvage, must not exceed the appraised value of each animal.
- B. The tuberculosis indemnity claims against the state are payable subject to Board approval and availability of funds.
- C. An Emergency Livestock Disease Fund is available for use in effecting prevention, control and eradication of serious diseases to livestock of a contagious, infectious or communicable nature as determined by the State Veterinarian to constitute an emergency. Upon the additional determination by the Governor that an emergency does exist, expenditures from the fund may be made to meet the state's obligation under subsection (A) above.

R3-2-502. Pseudorabies Control and Eradication Procedures

Procedures for pseudorabies control and eradication in swine shall be as prescribed in the USDA publication, Pseudorabies Eradication, State-Federal-Industry Program Standards, effective January 1, 1996. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Secretary of State.

R3-2-503. Brucellosis certification procedures Control and Eradication Procedures

- A. Procedures for brucellosis control and eradication in cattle and bison - Cattle and swine shall not be moved or transported to or within this state except in compliance with the provisions of shall be as prescribed in the U.S. Department of Agriculture USDA publication, Brucellosis Eradication - Uniform Methods and Rules effective July 15, 1986, and amendments thereto effective January 15, 1988, amended July 8, 1994. This material is incorporated herein by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

- B. Procedures for brucellosis control and eradication in swine shall be as prescribed in the USDA publication, Swine Brucellosis Control/Eradication, State-Federal-Industry - Uniform Methods and Rules, revised February 1995. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS

R3-2-601. Definitions

In this Article unless the context otherwise requires: The following terms apply to this Article:

1. "Animals" means livestock, dogs, cats, rabbits, rodents, game animals, furbearing and wild mammals, poultry and other birds.
2. "Board" means the Arizona State Livestock Board.
- 3.1. "Breeding cattle" or "beef cattle" means cattle bred primarily for meat production and being essentially of recognized beef cattle ancestry.
- 4.2. "Dairy cattle" means cattle of dairy breeds or dairy types used for the production of milk or milk products for human consumption.
3. "Designated feedlot" means a confined drylot area under state quarantine that has been approved and licensed by the State Veterinarian and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.
- 5.4. "Health certificate" means a legible record issued by a VS animal health official, state animal health official, or accredited veterinarian at the point of origin of a shipment of animals that conforms to the requirements of R3-2-606 and is written on an official health certificate a form approved by the chief animal health official of the state of origin or an equivalent form of the U.S. Department of Agriculture USDA attesting that the animals described thereon have been inspected and found to meet the Arizona entry requirements of the state of Arizona. In addition the health certificate shall conform to the requirements of R3-2-606.
6. "Livestock" means cattle, horses, mules, assess, sheep, swine, bison and goats.
- 7.5. "Permit number" means an official serialized number issued by the Arizona State Veterinarian's Office which that conforms to the requirements of R3-2-607 and allows the regulated movement of certain animals into Arizona. In addition the permit shall conform to the requirements of R3-2-607.
8. "Poultry" means domesticated birds, including, but not limited to, chickens, turkeys, ducks, geese, guinea fowl, pigeons and pheasants.
6. "Specifically approved stockyard" means a stockyard specifically approved by VS and the State Veterinarian for receiving cattle and bison from other states other than brucellosis-reactor, brucellosis-suspect, and brucellosis-exposed cattle or bison.

R3-2-612. Requirements for importation of cattle Importation of Cattle and Bison

- A. Cattle must enter in conformity with In addition to the following conditions, the owner or owner's agent shall comply with the requirements in R3-2-602 through R3-2-611 provided for all cattle and bison entering Arizona:
1. Steers, spayed heifers and calves under six months of age are exempt from brucellosis or tuberculosis testing.

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2. ~~Bulls over six months of age not consigned to a quarantined feedlot or immediate slaughter must meet standard test requirements for breeding animals. (Brucellosis and tuberculosis.)~~
 - 3-1. ~~The owner or owner's agent of imported cattle or bison shall bear the Expenses expenses incurred due to quarantines, testing and retesting of imported cattle or bison shall be borne by the owner who has custody of the cattle prior to release of quarantine.~~
 2. ~~All beef and dairy breeding cattle, and breeding bison shall be individually identified by a USDA metal eartag applied by an accredited veterinarian.~~
 - 4-3. ~~The state will Arizona shall not accept:~~
 - a. ~~animals Cattle or bison from brucellosis infected, exposed, or quarantined herds regardless of their vaccination and/or test status, or both, except:~~
 - i. ~~for steers, Steers and spayed females, and~~
 - ii. ~~animals being Animals shipped directly to an Arizona quarantined feedlot or for immediate slaughter to a licensed state or federal slaughter establishment;~~
 - b. ~~Cattle or bison of unknown brucellosis exposure status, unless consigned for feeding purposes to a designated feedlot, or to quarantine pens approved by the State Veterinarian at an export station approved by the USDA;~~
 - c. ~~Dairy breeding cattle from a state or region within a foreign country without brucellosis status comparable to a Class Free State, or without tuberculosis status comparable to an Accredited-Free State;~~
 - d. ~~Dairy and dairy cross steers, and dairy and dairy cross spayed heifers from Mexico;~~
 - e. ~~Beef breeding cattle or breeding bison from a state or region within a foreign country without comparable brucellosis status to a Class A State, or without comparable tuberculosis status to a Modified Accredited State.~~
- B. ~~Bovine brucellosis Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle from other states.~~
1. ~~Officially calfhood vaccinated heifers as defined in the Uniform Methods and Rules for Brucellosis Eradication, must have a negative brucellosis test The owner or owner's agent shall ensure that an official calfhood vaccine shall test negative for brucellosis before entering Arizona if the official calfhood vaccine is:~~
 - a. ~~18 months of age or older, or~~
 - b. ~~if cutting Cutting the first set of permanent incisors, or~~
 - c. ~~Is parturient or postparturient. Such vaccinated animals are also subject to the quarantine and retest requirements at destination (see (C)(2) below).~~
 2. ~~The owner or owner's agent shall ensure that bulls and non-vaccinated heifers test negative for brucellosis if 12 months of age or older, unless consigned for feeding purposes to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless permission is granted by the State Veterinarian to apply the "F" brand on arrival. All cattle or bison that leave the designated feedlot shall go immediate to a state or federal slaughter establishment for slaughter or to another designated feedlot.~~
 - 2-3. ~~No brucellosis test is required for cattle or bison originating from a certified brucellosis free herd if Certified Brucellosis-Free Herd if the herd certification number is documented on the health certificate and import permit accompanying the cattle.~~
- 3-4. ~~Dairy or The owner or owner's agent shall ensure that beef breeding cattle or breeding bison entering without the above qualifications must be otherwise qualified by a negative test within 30 days of entry, remain under quarantine and isolation for retesting not earlier than 45 days nor later than 120 days from Class A states and dairy cattle from Class A states or stockyard auctions in Class Free States remain under import quarantine and isolation until tested negative for brucellosis not earlier than 45 days nor later than 120 days after entry. Exceptions to such this import quarantine and brucellosis testing is are provided for native ranch cattle in adjacent free or class-A states Class A States and official calfhood vaccinates not yet less than 18 months of age.~~
5. ~~The owner or owner's agent shall notify the State Veterinarian within 7 days of moving beef breeding cattle, breeding bison, and dairy cattle under import quarantine from the destination, unless shipped directly to slaughter and the State Veterinarian is notified at the time others in the lot are retested for brucellosis.~~
- 4-6. ~~Test-eligible Beef breeding cattle, breeding bison, and dairy cattle meeting the criteria of subsections (B)(1) or (B)(2) consigned permit from adjacent states may be imported without a brucellosis test if moved to an specifically approved stockyard Arizona auction are to be and tested prior to before sale and/or movement from the auction premises stockyard. They are The owner or owner's agent shall not commingle these cattle or bison not to be commingled with other cattle or bison until tested and found to be brucellosis negative.~~
- C. ~~Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle from Mexico.~~
1. ~~Before entry into Arizona, beef breeding cattle, breeding bison, or dairy cattle from Mexico shall meet the requirements of 9 CFR 92.424 through 92.427, amended March 15, 1995. This material is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions of the incorporated matter.~~
 2. ~~The owner or owner's agent shall ensure that beef breeding cattle, breeding bison, and dairy cattle from Mexico shall remain under import quarantine and isolation until tested negative for brucellosis not earlier than 60 days nor later than 120 days after entry, and again 30 days after calving, unless consigned to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless permission is granted by the State Veterinarian to apply the "F" brand on arrival. Unless neutered, all cattle or bison leaving the designated feedlot shall go to a state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The designated feedlot shall keep metal eartag identification records on all incoming consignments and submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle or bison to slaughter and a copy shall be submitted to the State Veterinarian.~~
- C.D. ~~Except for the following. All all female dairy cattle over six more than 4 months of age, imported into the state of Arizona after January 1, 1984, are to shall be official calfhood vacci-~~

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nates, properly identified, certified, and legibly tattooed.
Exceptions:

1. Show cattle for exhibition only.
2. Certified free cattle under special permit/permission. Cattle from a Certified Brucellosis-Free Herd with permission of the State Veterinarian;
3. Cattle from a brucellosis-free state or country with permission of the State Veterinarian.
- 3-4. Cattle in consigned direct route to slaughter to a licensed state or federal slaughter establishment for immediate slaughter.
- 4-5. "S" branded and destined for a quarantined Cattle for feeding purposes consigned to a licensed, designated feedlot under import permit number.

D.E. Imported cattle presented at auctions but still under quarantine prior to retesting (after 45 days of entry but not later than 120 days) shall be identified out of the auction to the owner responsible for proper segregation and retesting in the allotted time. When imported breeding cattle, breeding bison, or dairy cattle are sold at a specifically approved stockyard, the owner or owner's agent shall, at the time of the sale, identify those cattle to the new owner as being under import quarantine (after 45 days of entry but not later than 120 days). The new owner shall segregate the cattle and retest for brucellosis. Such If market cattle identification testing for brucellosis is conducted at the auction, the cattle or bison shall also be included in the MCI testing at such auction prior to be tested before the sale.

E. Imported adult vaccinated cattle may by special permission be introduced into other adult vaccinated herds only. Such cattle shall be properly identified by ear tags, tattoos and the "AV" hot brand on the last jaw. Such herds shall be classified under special restricted status.

F. Bovine tuberculosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle from other states.

1. Accredited tuberculosis free herds: Properly documented dairy and breeding cattle from Accredited Tuberculosis Free Herds are allowed importation without further test requirements. Herd accreditation number must be documented on the health certificate accompanying the shipment. No tuberculosis test is required for beef breeding cattle, breeding bison, or dairy cattle from an accredited herd if the herd accreditation number is documented on the health certificate and import permit.
2. Accredited tuberculosis free states: Native commercial and purebred beef breeding cattle of the beef breeds from an Accredited Tuberculosis-Free States may be imported without further testing if properly documented on the health certificate.
3. All purebred cattle, Unless from an accredited herd, prescribed in subsection (F)(1), the owner or owner's agent shall ensure that purebred beef breeding cattle from modified accredited states, breeding bison, dairy females, and bulls for breeding dairy cattle unless from a properly documented Accredited Free Herd, must enter with a test negative for tuberculosis test applied within 60 days prior to before entry, and retested 60 to 120 days after importation.
4. Steers and spayed heifers are exempt from tuberculosis testing.

G. Bovine tuberculosis testing requirements for cattle and bison from Mexico.

1. Before entry into Arizona, cattle and bison from Mexico shall meet the requirements of 9 CFR 92.424 through 92.427, that have been incorporated by reference in subsection (C)(1).

2. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Control Phase of the bovine tuberculosis eradication program of Mexico, may be imported into Arizona until March 1, 1997, if they have tested negative for tuberculosis in accordance with procedures equivalent to the Bovine Tuberculosis Eradication - Uniform Methods and Rules within 60 days before entry into the United States.
3. Steers and spayed heifers from states or regions in Mexico that have not been determined by the State Veterinarian to have fully implemented the Control or the Eradication Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona until March 1, 1997, if they are tested negative for tuberculosis twice in accordance with procedures equivalent to the Bovine Tuberculosis Eradication - Uniform Methods and Rules at least 60 days apart, with the second test performed within 60 days before entry into the U.S. The owner or owner's agent shall ensure that both tests shall be performed in a state that has been determined by the State Veterinarian to have fully implemented the Control, Eradication, or Free Phase of the bovine tuberculosis eradication program of Mexico.
4. After March 1, 1997, steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Eradication Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona, if they have either:
 - a. Tested negative for tuberculosis in accordance with procedures equivalent to the Bovine Tuberculosis Eradication - Uniform Methods and Rules within 60 days before entry into the United States, or
 - b. Originated from a herd that is equivalent to an accredited herd in the United States and are moved directly from the herd of origin across the border as a single group and not commingled with other cattle or bison before arriving at the border.
5. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have achieved the Free Phase of the bovine tuberculosis eradication program of Mexico may move directly into Arizona without testing or further restrictions if they are moved as a single group and not commingled with other cattle before arriving at the border.
6. Beef breeding cattle and breeding bison from states in Mexico determined by the State Veterinarian to have fully implemented the Eradication or Free Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona if they remain under import quarantine and isolation until retested negative for tuberculosis in accordance with the Bovine Tuberculosis Eradication - Uniform Methods and Rules, incorporated by reference in R3-3-501, not earlier than 60 days, nor later than 120 days after entry unless consigned to a designated feedlot for feeding purposes only. Unless neutered, all cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless permission is granted by the State Veterinarian to apply the "F" brand on arrival. All cattle or bison that leave the designated feedlot shall go to a state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The designated feedlot shall keep metal ear tag identification records on all incoming consignments and submit the

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records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle and bison to slaughter and a copy shall be submitted to the State Veterinarian.

G.H. Bovine scabies requirements,

1. ~~No~~ The owner or owner's agent shall ensure that no cattle or bison affected with or exposed to scabies shall be shipped, trailed, driven, or otherwise transported or moved into the state of Arizona for any purpose except cattle or bison properly identified and moving under permit number and seal for immediate slaughter at a specific licensed state or federal slaughter plant establishment.
2. ~~Cattle~~ The owner or owner's agent of cattle or bison from a state or federal scabies quarantined areas (state or federal) ~~must~~ shall comply with all provisions the requirements of 9 CFR 73, "Scabies in Cattle", amended

October 21, 1991, which provisions are hereby incorporated by reference, before movement is permitted into Arizona. This material, incorporated by reference, is on file with the Office of the Secretary of State, and does not include any later amendments or editions of the incorporated matter.

3. ~~Beef herding~~ The State Veterinarian may require that breeding and feeder-feeding cattle and bison from known scabies infected areas and states with major infestations may be required to be dipped be dipped or treated even though if the animals are not known to be directly exposed. Dairy cattle will be required to The State Veterinarian shall require that dairy cattle be dipped only if the animals are known to be exposed; otherwise a veterinarian's examination and certification may shall be sufficient. Such requirements will be furnished with permit when applicable.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. BOARD OF MEDICAL EXAMINERS

PREAMBLE

1. **Sections Affected**
R4-16-103
Rulemaking Action
New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-1404
Implementing statute: A.R.S. § 32-1426
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Elaine Hugunin, Deputy Director
Address: Board of Medical Examiners
1651 East Morten, Suite 210
Phoenix, Arizona 85020
Telephone: (602) 255-3751
4. **An explanation of the rule, including the agency's reasons for initiating the rule:**
A.R.S. § 32-1426 was amended in 1995 during the Legislature's 4th special session to change the statutory language addressing licensure by endorsement to extend the time for completing a series of national examinations from "administered between June 1, 1992, and July 31, 1995" to "within a 7-year period, or a longer period established by the board in rules adopted pursuant to A.R.S. Title 41, Chapter 6". This change was made because the timing of the examinations referenced in the statute could not be completed by many medical students within this time frame. This resulted in a number of resident physicians being denied licensure and several residents being unable to accept chief residency positions because they could not be licensed. The proposed rules establish standards for completion of medical licensing examinations for medical school graduates who, by reason of an extended academic program, e.g. M.D./J.D. or M.D./Ph.D. programs, are unable to complete all 3 parts of the medical licensing examination combinations within the time allowed in statute. The new rule implements the statutory grant of authority to the Board by extending the period of time for taking the required combination of national licensing examinations from 7 years, the time allowed for all applicants, to 10 years. The additional time will allow the completion of the dual degree programs and allow the new graduate to have an internship or residency experience before completing the examinations. Presently, most medical students take the 1st 2 parts of the examination in medical school and the last during internship or residency training.
5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
6. **The preliminary summary of the economic, small business, and consumer impact:**
Cost impacts of this rule amendment are anticipated to be minimal. The expected number of applicants seeking to utilize this new procedure is less than 10. There is a \$750 application fee for a physician who qualifies under this rule for the processing of the

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physician's license application. Cost to the Board of Medical Examiners will be minimal additional staff time and \$550 in examination costs for each applicant, while total revenues are expected to be about \$7500 for the expected 10 applicants. The greatest financial benefit will be to those medical school graduates who will be able to practice medicine in Arizona upon complying with the examination requirements proposed in this rule. The benefit is expected to be substantial.

Others will benefit, but not financially. Those benefitting include health care organizations which will have a wider pool of providers from which to choose and consumers who will benefit from the availability of additional, well-trained, licensed physicians in Arizona.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Elaine Hugunin, Deputy Director

Address: Board of Medical Examiners
1651 East Morten, Suite 210
Phoenix, Arizona 85020

Telephone Number: (602) 255-3751

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No public hearing is planned. However, written comments will be accepted by the Board by Ms. Elaine Hugunin, Deputy Director, at the address set forth above, until 5 p.m., January 17, 1997.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

10. Incorporations by reference and their location in the rules:

None.

11. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. BOARD OF MEDICAL EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section

R4-16-103. Licensure by Endorsement

ARTICLE 1. GENERAL PROVISIONS

R4-16-103. Licensure by Endorsement

A. An applicant for licensure by endorsement may request from the Board, in writing, an extension beyond the 7-year time period provided by A.R.S. § 32-1426(B)(4) for passage of an acceptable combination of examinations. An applicant shall submit the request to the Board together with evidence that the applicant meets all requirements for licensure and for taking the United States Medical Licensing Examination, that the combination of examinations cannot be passed in the time required by law, and that the applicant is:

1. A full-time student in an approved school of medicine; or,
2. A participant in an approved hospital internship, residency or clinical fellowship program; or
3. Actively engaged in full-time education as a part of a recognized degree program concurrently or consecutively with medical school or postgraduate training.

- B. The requested extension shall be granted by the Board upon the Board determining that an applicant has submitted evidence which satisfies the requirements of subsection (A).
- C. An applicant may be granted an extension of up to 10 years from the date of the successful completion of the 1st part of the combination of examinations.
- D. An applicant who is denied an extension may request a hearing to contest the denial by filing a written notice with the Board within 15 days of receipt of notice of the Board's action. A hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6.
- E. For purposes of this Section, an "recognized degree program" means an education program which is offered by a college or university which is approved by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools or the Western Association of Schools and Colleges; or accredited by the United States Department of Education, the Council on Postsecondary Accreditation, the Association of American Medical Colleges, the Association of Canadian Medical Colleges, or the American Medical Association.

NOTICE OF PROPOSED RULEMAKING

TITLE 10. LAW

CHAPTER 3. DEPARTMENT OF LAW CIVIL RIGHTS DIVISION

PREAMBLE

1. **Sections Affected**

R10-3-402	Rulemaking Action
R10-3-403	Amend
	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: The authority of the Attorney General to adopt rules is set forth in A.R.S. § 41-192(B)(2) and A.R.S. § 41-1492.06. Under the Arizonans with Disabilities Act of 1992, the Attorney General is required to adopt rules which do not exceed Titles II and III of the federal Americans with Disabilities Act, 42 USC §§ 12101 through 12213, and its implementing regulations, 28 CFR 35 and 36, and 49 CFR 38.

Implementing statutes: A.R.S. §§ 41-1492 through 41-1492.12.
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Robbin M. Coulon Assistant Attorney General, Civil Rights Division
Address:	Attorney General's Office 1275 West Washington Phoenix, Arizona 85007
Telephone:	(602) 542-5263 (Phoenix) or (602) 628-6500 (Tucson)
Fax:	(602) 542-1275 (Phoenix) or (602) 628-6765 (Tucson)
TTY Numbers:	(602) 542-5002 (Phoenix) or (520) 628-6872 (Tucson)
4. **An explanation of the rule, including the agency's reasons for initiating the rule:**

R10-3-402 establishes the requirements for nondiscrimination by specified public transportation on the basis of disability in accordance with A.R.S. § 41-1492.05. This section adopts and incorporates by reference provisions of 36 CFR 1191 and its accompanying appendix, which are guidelines adopted by the Architectural and Transportation Barriers Compliance Board regarding specified public transportation services by a private entity. The incorporation of 49 CFR 38 will include the guidelines and make this provision consistent with all of the federal regulations that implement Title III of the ADA.

R10-3-403 establishes the requirements for nondiscrimination by public entities on the basis of disability in accordance with A.R.S. § 41-1492.01. Subsection (B) extended the time for the installations of curb ramps by public entities under the Arizonans with Disabilities Act of 1992 to January 26, 1997, in anticipation of a federal rule change. Subsection (B) must be consistent with the federal rule. Therefore, the time to install curb ramps has been changed to mirror the language in the proposed federal rule. Action on the proposed federal rule is currently pending.
5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.
6. **The preliminary summary of the economic, small business and consumer impact:**

R10-3-402 and R10-3-403, as amended, incorporate applicable federal regulations by reference so as not to exceed Titles II and III of the federal Americans with Disabilities Act and its implementing regulations. The purpose of these provisions is to set forth the applicable accessibility standards for specified public transportation and to ensure that the curb ramp provisions, which apply to public entities, are consistent with federal law.

The accessibility standards set forth in R10-3-402 impose no actual additional costs to providers of specified public transportation services who should have complied with Titles II and III of the ADA and their implementing regulations or the Rehabilitation Act of 1973.

Actual costs to a private entity for the implementation of R10-3-403 are difficult to measure because costs will depend on a number of variables, including the number of curb ramps that need to be installed. Therefore, by extending the time period for compliance, public entities will be able to adequately budget for any additional costs.

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There are thousands of Arizona citizens who benefit from greater accessibility. The ability for Arizona citizens with disabilities to gain access to specified public transportation services or to have greater access because of the installation of curb ramps at existing pedestrian walkways is significant to their quality of life.

The benefits justify any additional costs to public entities or providers of specified public transportation services.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Robbin M. Coulon
Assistant Attorney General, Civil Rights Division

Address: Attorney General's Office
1275 West Washington,
Phoenix, Arizona 85007

Telephone: (602) 542-5263 (Phoenix) or (602) 628-6500 (Tucson)

Fax: (602) 542-1275 (Phoenix) or (602) 628-6765 (Tucson)

TTY Numbers: (602) 542-5002 (Phoenix) or (520) 628-6872 (Tucson)

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments will be accepted at the above address through December 24, 1996.

A public hearing to receive oral comments regarding the proposed rules will be held as follows:

Date: January 9, 1997

Time: 1:30 p.m.

Location: Maricopa County Board of Supervisor's Auditorium
205 West Jefferson
Phoenix, Arizona 85003

The Attorney General follows Title II of the Americans with Disabilities Act. The Attorney General does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Individuals who need a reasonable accommodation (including auxiliary aids or services) to participate in the above scheduled hearing, or who require this information in an alternative format may contact the Phoenix Office of the Civil Rights Division.

To request an accommodation to participate in the public comment process or to obtain this notice in large print, Braille, or on audiotape, contact Joanne Granville at (602) 542-5263 (Voice); (602) 542-5002 (TDD); 1275 W. Washington, Phoenix, AZ 85007. Requests should be made as soon as possible so that the Attorney General's Office will have sufficient time to respond.

9. Other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

A.R.S. § 41-1492.06(B) states that all rules adopted under the Arizona Americans with Disabilities Act shall not exceed the regulations, guidelines and standards issued by the United States Departments of Transportation and Justice relating to Titles II and III of the Americans with Disabilities Act.

10. Incorporations by reference and their location in the rules:

R10-3-402 incorporates by reference those provisions of 49 CFR 38, which relate to specified public transportation services by a private entity.

R10-3-403 incorporates by reference 28 CFR §§ 35.130(b)(4), 35.133, 35.135, 35.150, 35.151, 35.163 and Appendix A to 28 CFR 36.

11. The full text of the rules follows:

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TITLE 10. LAW

**CHAPTER 3. DEPARTMENT OF LAW
CIVIL RIGHTS DIVISION**

ARTICLE 4. THE ARIZONANS WITH DISABILITIES ACT

- R10-3-402. Nondiscrimination on the Basis of Disability by Specified Public Transportation
- R10-3-403. Nondiscrimination on the Basis of Disability by Public Entities

ARTICLE 4. THE ARIZONANS WITH DISABILITIES ACT

R10-3-402. Nondiscrimination on the Basis of Disability by Specified Public Transportation

Owners and operators of specified public transportation shall comply with the provisions of ~~36 CFR 1191 and accompanying appendix, 49 CFR 38~~, adopted September 6, 1991, and no further amendments, relating to specified public transportation services by a private entity, which are adopted, incorporated by reference, and are on file with the Office of the Arizona Attorney General Civil Rights Division, the Office of the Arizona Secretary of State, and the United States Department of Justice Civil Rights Division, P.O. Box 66738, Washington, D.C. 20035.

R10-3-403. Nondiscrimination on the Basis of Disability by Public Entities

- A. Public entities shall comply with the provisions of 28 CFR §§ 35.130 (b)(4), 35.133, 35.135, 35.150, 35.151, 35.163, and Appendix A to 28 CFR 36, adopted July 26, 1991, and no further amendments, which are adopted, incorporated by reference, and are on file with the Office of the Arizona Attorney General Civil Rights Division, the Office of the Arizona Sec-

retary of State, and the United States Department of Justice Civil Rights Division, P.O. Box 66738, Washington, D.C. 20035.

- B. 28 CFR 35.150(c), as incorporated by this Section, is amended as follows:

1. A public entity shall comply with the obligations of this section relating to provision of curb ramps or other sloped areas where existing public pedestrian walkways cross curbs at locations serving State and local government offices and facilities, transportation, places of public accommodation, employers, and the residences of individuals with disabilities no later than ~~January 26, 1997~~ January 26, 2000, but in any event, as expeditiously as possible.
2. A public entity shall comply with the obligations of this section relating to provision of curb ramps or other sloped areas where existing public pedestrian walkways cross curbs at areas not subject to subsection (B)(1) no later than ~~January 26, 1997~~ January 26, 2005, but in any event, as expeditiously as possible.
3. If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a specific schedule for the installation of curb ramps or other sloped areas where pedestrian walkways cross curbs that complies with the requirements of subsections (B)(1) and (2).